

**BOROUGH OF BRADLEY BEACH
BOND ORDINANCE NUMBER 2014-06**

**BOND ORDINANCE PROVIDING FOR THE
IMPROVEMENTS TO THE BRADLEY BEACH LIBRARY,
BY AND IN THE BOROUGH OF BRADLEY BEACH, IN THE
COUNTY OF MONMOUTH, STATE OF NEW JERSEY;
APPROPRIATING \$900,000 THEREFOR AND
AUTHORIZING THE ISSUANCE OF \$855,200 BONDS OR
NOTES OF THE BOROUGH TO FINANCE PART OF THE
COST THEREOF**

**BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE
BOROUGH OF BRADLEY BEACH, IN THE COUNTY OF MONMOUTH, STATE OF
NEW JERSEY** (not less than two-thirds of all members thereof affirmatively concurring)
AS FOLLOWS:

SECTION 1. The improvement or purpose described in Section 3 of this bond ordinance is hereby authorized as a general improvement or purpose to be undertaken by the Borough of Bradley Beach, in the County of Monmouth, State of New Jersey (the "Borough"). For the said improvement or purpose stated in Section 3, there is hereby appropriated the sum of \$900,000, which sum includes \$44,800 as the amount of down payment for said improvement or purpose required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"), a \$22,400 portion of said down payment shall be contributed by the Bradley Beach Library pursuant to the Agreement (as defined herein). Said down payment is now available therefor by virtue of a provision or provisions in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes.

SECTION 2. For the financing of said improvement or purpose described in Section 3 hereof and to meet the part of said \$900,000 appropriation not provided for by

application hereunder of said down payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$855,200 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the Borough in a principal amount not exceeding \$855,200 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law. The principal of and interest on all or a portion of the \$855,200 aggregate principal amount of said bonds or notes authorized hereby shall be paid by the Bradley Beach Library (the "Library") pursuant to an agreement by and between the Borough and the Library (the "Agreement") memorializing the Library's obligation to pay the principal of and interest on all or a portion of the \$855,200 aggregate principal amount of said bonds or notes authorized hereby.

SECTION 3. (a) The improvement hereby authorized and purpose for the financing of which said bonds or notes are to be issued is improvements to the Bradley Beach Library, including but not limited to, demolition and site preparation, the construction of an addition, various Americans with Disabilities Act improvements, various interior and exterior improvements and the acquisition and installation, as applicable, of an elevator, equipment and furnishings and all landscaping and site restoration, and also including all engineering and design work, surveying, construction planning, preparation of plans and specifications, permits, bid documents, construction inspection and contract administration, and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto and all in accordance with the plans and specifications therefore on file in the office of the Borough Clerk and available for public inspection and hereby approved.

(b) The estimated maximum amount of bonds or notes to be issued for said improvement or purpose is \$855,200.

(c) The estimated cost of said improvement or purpose is \$900,000, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor, being the amount of \$44,800, is the down payment for said improvement or purpose (a \$22,400 portion of said down payment shall be contributed by the Bradley Beach Library pursuant to the Agreement).

SECTION 4. In the event the United States of America, the State of New Jersey, and/or the County of Monmouth make a contribution or grant in aid to the Borough, for the improvement and purpose authorized hereby and the same shall be received by the Borough prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey and/or the County of Monmouth. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey and/or the County of Monmouth, shall be received by the Borough after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose. This Section 4 shall not apply, however, with respect to any contribution or grant in aid received by the Borough as a result of using funds from this bond ordinance as “matching local funds” to receive such contribution or grant in aid. The principal of and interest on all or a portion of the \$855,200 aggregate principal amount of said bonds or notes authorized hereby shall be paid by the Library pursuant to the Agreement.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough, provided that no note shall mature later than one (1) year from its date or otherwise authorized by the Local Bond Law. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The Capital Budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget and capital programs as approved by the Director of the Division of Local Government Services, New Jersey

Department of Community Affairs will be on file in the office of the Clerk and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense and is an improvement which the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 20 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$855,200 and the said bonds or notes authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$225,000 for items of expense listed in and permitted under section 20 of the Local Bond Law is included in the estimated cost indicated herein for the purpose or improvement hereinbefore described.

SECTION 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the bonds or notes authorized by this bond ordinance. The bonds or notes shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the bonds or notes and the interest thereon without limitation as to rate or amount.

SECTION 9. The Borough reasonably expects to reimburse any expenditures toward the costs of the improvement or purpose described in Section 3 of this bond ordinance and paid prior to the issuance of any bonds or notes authorized by this bond ordinance with the proceeds of such bonds or notes. No funds from sources other than the bonds or notes authorized herein have been or are reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the Borough, or any member of the same "Controlled Group" as the Borough, within the meaning of Treasury Regulation Section 1.150-1(e), pursuant to its budget or financial policies with respect to any expenditures to be reimbursed. This Section 9 is intended to be and hereby is a declaration of the Borough's official intent to reimburse any expenditures toward the costs of the improvement or purpose described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulation Section 1.150-2, and no further action (or inaction) will be an abusive arbitrage device in accordance with Treasury Regulation Section 1.148-10 to avoid the arbitrage yield restrictions or arbitrage rebate requirements under section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). The proceeds of any bonds or notes authorized herein used to reimburse the Borough for any expenditures toward the costs of

the improvement or purpose described in Section 3 hereof will not be used directly or indirectly (i) to “refund” an issue of governmental obligations within the meaning of Treasury Regulation Section 1.150-1(d), (ii) to create, within one year, following the reimbursement of any expenditures of bond proceeds “replacement proceeds”, within the meaning of Treasury Regulation Section 1.148-1 of the bonds, or any other bond issue, or (iii) to reimburse the Borough for any expenditure or payment that was originally paid with the proceeds of any obligation of the Borough (other than borrowing by the Borough from one of its own funds or the funds of a member of the same “Controlled Group” within the meaning of Treasury Regulation Section 1.150-1(e)). The bonds or notes authorized herein to reimburse the Borough for any expenditures toward the costs of the improvement or purpose described in Section 3 hereof will be issued in an amount not to exceed \$855,200. The costs to be reimbursed with the proceeds of the bonds or notes authorized herein will be “capital expenditures” in accordance with the meaning of section 150 of the Code and Treasury Regulation Section 1.150-1. This provision will take effect immediately, but will be of no effect with regard to expenditures for costs paid outside the permitted reimbursement period set forth in Treasury Regulation Section 1.150-2(d)(2).

SECTION 10. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Code of the interest on all bonds and notes issued under this ordinance.

SECTION 11. The Mayor and Chief Financial Officer are each hereby authorized and directed to determine all matters in connection with the Agreement not determined by this or a subsequent resolution, all in consultation with the Borough Attorney or Bond Counsel, and the manual or facsimile signature of the Mayor and

Chief Financial Officer upon any documents shall be conclusive as to all such determinations. The Mayor, Borough Administrator, Chief Financial Officer, Borough Clerk and any other Borough Representative, including but not limited to, Bond Counsel, the Borough Attorney, the Borough Auditor and the Borough Engineer, are each hereby authorized and directed to take such actions or refrain from such actions as are necessary to enter into the Agreement, including but not limited to, the negotiation of any and all contracts, agreements and documents, and any all such actions or inactions taken by the aforesaid Borough Representatives heretofore are hereby ratified and confirmed, *nunc pro tunc*.

SECTION 12. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

ADOPTED ON FIRST READING
DATED: February 25, 2014

MARY ANN SOLINSKI,
Borough Clerk

ADOPTED ON SECOND READING
DATED: March 11, 2014

MARY ANN SOLINSKI,
Borough Clerk

APPROVAL BY THE MAYOR ON THIS ____ DAY OF _____, 2014.

GARY ENGELSTAD,
Mayor

